

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1033

**Citations Affected:** IC 4-13.6-8-7; IC 8-1-8.8-14; IC 15-11-2-3; IC 36-1.

**Synopsis:** Renewable energy and energy savings contracts. Proposed conference committee report for EHB 1033. Requires the state utility forecasting group, in formulating suggestions concerning renewable energy resources for inclusion in its annual report, to evaluate potential renewable energy generation opportunities from biomass and algae production systems. Requires the department of agriculture, in its administration of economic development efforts for agriculture, to facilitate the use of biomass and algae production systems to generate renewable energy. Provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years, respectively.) Amends the statute governing local public works projects to provide that a political subdivision or its agencies may: (1) participate in a utility efficiency program; (2) enter into a guaranteed savings contract; and (3) enter into a design-build contract instead of awarding a public works contract. Provides that the term "conservation measure" includes the installation of insulation in a political subdivision's facility. (Under current law, installing insulation is a "conservation measure" only if the insulation is installed in a school facility.) **(This conference committee report: Changes the title of the act from energy to state and local administration; removes the requirement that the state utility forecasting group consider information provided by the federal AgSTAR program; includes algae production systems as a potential source of renewable energy; and inserts the contents of EHB 1254 as printed April 10, 2009, as follows: Provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years, respectively.) Amends the statute governing local public works projects to state that a political subdivision or its agencies may: (1) participate in a utility efficiency program; (2) enter into a guaranteed savings contract; and (3) enter into a design-build contract instead of awarding a public works contract. Provides that "conservation measure" includes installation of insulation in a political subdivision's facility. (Under current law, installing insulation is a "conservation measure" only if the insulation is installed in school facilities.))**

**Effective:** July 1, 2009.

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1033 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning state
- 3 and local administration.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 4-13.6-8-7 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After reviewing
- 7 the proposals submitted and after receiving a recommendation from the
- 8 budget committee, the department may approve an energy cost savings
- 9 contract with a qualified provider that best meets the needs of the
- 10 governmental body if the department reasonably expects the cost of the
- 11 qualified energy savings project recommended in the proposal would
- 12 not exceed the amount to be saved in:
- 13 (1) energy costs;
- 14 (2) operational costs; or
- 15 (3) both energy and operational costs;
- 16 not later than ~~ten (10)~~ **twenty (20)** years after the date installation is
- 17 completed if the recommendations in the proposal are followed.
- 18 (b) An energy cost savings contract must include a guarantee from
- 19 the qualified provider to the state that:
- 20 (1) energy cost savings;
- 21 (2) operational cost savings; or
- 22 (3) both energy and operational cost savings;

will meet or exceed the cost of the qualified energy project not later than ~~ten (10)~~ **twenty (20)** years after the date installation is completed.

SECTION 2. IC 8-1-8.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The group shall conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the regulatory flexibility committee described in IC 8-1-2.5-9 and IC 8-1-2.6-4. The report must include suggestions from the group to encourage the development and use of renewable energy resources and technologies appropriate for use in Indiana. **In formulating the suggestions, the group shall evaluate potential renewable energy generation opportunities from biomass and algae production systems.**

SECTION 3. IC 15-11-2-3, AS ADDED BY P.L.120-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The department shall do the following:

- (1) Provide administrative and staff support for the following:
  - (A) The state fair board for purposes of carrying out the director's duties under IC 15-13-5.
  - (B) The Indiana corn marketing council for purposes of administering the duties of the director under IC 15-15-12.
  - (C) The Indiana organic peer review panel under IC 15-15-8.
  - (D) The Indiana dairy industry development board for purposes of administering the duties of the director under IC 15-18-5.
  - (E) The Indiana land resources council under IC 15-12-5.
  - (F) The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.
  - (G) The Indiana grain indemnity corporation under IC 26-4-3.
  - (H) The division.
  - (I) The E85 fueling station grant program under IC 15-11-11.
- (2) Administer the election of state fair board members under IC 15-13-5.
- (3) Administer state programs and laws promoting agricultural trade.
- (4) Administer state livestock or agriculture marketing grant programs.
- (5) Administer economic development efforts for agriculture by doing the following:
  - (A) Promoting value added agricultural resources.
  - (B) Marketing Indiana agriculture to businesses internationally.
  - (C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development corporation.
  - (D) Soliciting private funding for selective economic development and trade initiatives.
  - (E) Providing for the orderly economic development and growth of Indiana's agricultural economy.
  - (F) Facilitating the use of biomass and algae production**

1 **systems to generate renewable energy.**

2 SECTION 4. IC 36-1-12-1, AS AMENDED BY P.L.168-2006,  
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2009]: Sec. 1. (a) Except as provided in this section, this  
5 chapter applies to all public work performed or contracted for by:

6 (1) political subdivisions; and

7 (2) their agencies;

8 regardless of whether it is performed on property owned or leased by  
9 the political subdivision or agency.

10 (b) This chapter does not apply to an officer or agent who, on behalf  
11 of a municipal utility, maintains, extends, and installs services of the  
12 utility if the necessary work is done by the employees of the utility.

13 (c) This chapter does not apply to hospitals organized or operated  
14 under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public  
15 work is financed in whole or in part with cumulative building fund  
16 revenue.

17 (d) This chapter does not apply to tax exempt Indiana nonprofit  
18 corporations leasing and operating a city market owned by a political  
19 subdivision.

20 (e) As an alternative to this chapter, the governing body of a ~~school~~  
21 ~~corporation~~ **political subdivision or its agencies** may **do the**  
22 **following:**

23 **(1) Enter into a design-build contract as permitted under**  
24 **IC 5-30.**

25 **(2) Participate in a utility efficiency program or ~~may~~ enter into a**  
26 **guaranteed savings contract as permitted under IC 36-1-12.5.**

27 (f) This chapter does not apply to a person that has entered into an  
28 operating agreement with a political subdivision or an agency of a  
29 political subdivision under IC 5-23.

30 SECTION 5. IC 36-1-12.5-1, AS AMENDED BY P.L.168-2006,  
31 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "conservation  
33 measure":

34 (1) means:

35 (A) a ~~school~~ facility alteration;

36 (B) an alteration of a structure (as defined in IC 36-1-10-2);

37 (C) a technology upgrade; or

38 (D) with respect to an installation described in subdivision

39 (2)(G) or (2)(H), an alteration of a structure or system;

40 designed to provide billable revenue increases or reduce energy  
41 or water consumption costs, wastewater costs, or other operating  
42 costs; and

43 (2) includes the following:

44 (A) Providing insulation of the ~~school~~ facility or structure and  
45 systems in the ~~school~~ facility or structure.

46 (B) Installing or providing for window and door systems,  
47 including:

48 (i) storm windows and storm doors;

49 (ii) caulking or weatherstripping;

50 (iii) multi-glazed windows and doors;

51 (iv) heat absorbing or heat reflective glazed and coated

- 1 windows and doors;
- 2 (v) additional glazing;
- 3 (vi) the reduction in glass area; and
- 4 (vii) other modifications that reduce energy consumption.

5 (C) Installing automatic energy control systems.

6 (D) Modifying or replacing heating, ventilating, or air  
7 conditioning systems.

8 (E) Unless an increase in illumination is necessary to conform  
9 to Indiana laws or rules or local ordinances, modifying or  
10 replacing lighting fixtures to increase the energy efficiency of  
11 the lighting system without increasing the overall illumination  
12 of a facility or structure.

13 (F) Providing for other conservation measures that provide  
14 billable revenue increases or reduce energy or water  
15 consumption, reduce operating costs, or reduce wastewater  
16 costs, including future:

- 17 (i) labor costs;
- 18 (ii) costs or revenues for contracted services; and
- 19 (iii) related capital expenditures.

20 (G) Installing equipment upgrades that improve accuracy of  
21 billable revenue generating systems.

22 (H) Installing automated, electronic, or remotely controlled  
23 systems or measures that reduce direct personnel costs.

24 (b) The term does not include an alteration of a water or wastewater  
25 structure or system that increases the capacity of the structure or  
26 system.

27 SECTION 6. IC 36-1-12.5-5, AS AMENDED BY P.L.168-2006,  
28 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2009]: Sec. 5. (a) The governing body may enter into an  
30 agreement with a public utility to participate in a utility efficiency  
31 program or enter into a guaranteed savings contract with a qualified  
32 provider to increase the political subdivision's billable revenues or  
33 reduce the school corporation's or the political subdivision's energy or  
34 water consumption, wastewater usage costs, or operating costs if, after  
35 review of the report described in section 6 of this chapter, the  
36 governing body finds:

37 (1) in the case of conservation measures other than those that are  
38 part of a project related to the alteration of a water or wastewater  
39 structure or system, that the amount the governing body would  
40 spend on the conservation measures under the contract and that  
41 are recommended in the report is not likely to exceed the amount  
42 to be saved in energy consumption costs and other operating costs  
43 over ~~ten (10)~~ **twenty (20)** years from the date of installation if the  
44 recommendations in the report were followed;

45 (2) in the case of conservation measures that are part of a project  
46 related to the alteration of a water or wastewater structure or  
47 system, that the amount the governing body would spend on the  
48 conservation measures under the contract and that are  
49 recommended in the report is not likely to exceed the amount of  
50 increased billable revenues or the amount to be saved in energy  
51 and water consumption costs, wastewater usage costs, and other

operating costs over ~~fifteen (15)~~ **twenty (20)** years from the date of installation if the recommendations in the report were followed; and

(3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:

(A) a utility efficiency program; or

(B) a guaranteed savings contract; and

(2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school

corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and  
 (4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(e) An agreement or a contract under this chapter is subject to IC 5-16-7.

SECTION 7. IC 36-1-12.5-7, AS AMENDED BY P.L.168-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:

- (1) the vendor under the guaranteed savings contract; or
- (2) a third party financial institution or company.

(Reference is to EHB 1033 as printed April 8, 2009.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1033**

**S**igned by:

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Representative Grubb  
Chairperson

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Senator Stutzman

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Representative Koch

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Senator Deig

**House Conferees**

**Senate Conferees**